

Update: Adoption Proceedings Benchbook

CHAPTER 3

Identifying the Father

3.1 “Father” Defined

D. Equitable Father

Insert the following case summary after the last paragraph in this subsection near the middle of page 76:

Identification of a child’s equitable father precludes any later determination that the child was born out of wedlock; consequently, the child’s mother has no standing to pursue a paternity action against any other man concerning that child. *Coble v Green*, ___ Mich App ___, ___ (2006) (a legal malpractice action involving the biological father of the child at issue in *York v Morofsky*, 225 Mich App 333 (1997)).

The *Coble* case arose when the equitable father (Morofsky) named in the *York* case failed to pay child support. *Coble, supra* at _____. The child’s mother initiated a paternity action against the child’s biological father (Coble) and the trial court ordered Coble to pay child support. *Id.* at _____. In disposing of Coble’s malpractice action against the attorney who represented him in the paternity action, the Court reiterated the permanent and exclusive status of an individual determined to be the equitable parent of the child:

“Because a court determination that a man is the equitable father of a child is mutually exclusive of a determination that the child was born out of wedlock, an equitable parentage order precludes the mother from having standing to assert a paternity action regarding that child.” *Id.* at _____.